

Revised on 3/31/08 based on amendments adopted through 3/27/08.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2008-09		FY 2009-10	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	(\$61,866,417)		(\$44,448,230)	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	(\$61,866,417)		(\$44,448,230)	

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 988 changes the Tax Equity and Educational Opportunities Support Act which provides state aid to school districts, beginning in 2008-09. The bill provides that the certification of state aid for 2008-09 is null and void and requires aid to be recertified by April 30, 2008 or the fifteenth day after the effective date of the bill, whichever occurs later, using the provisions of LB 988. A computer run generated by the State Department of Education models the changes in the bill for 2008-09. Some portions of the bill, as noted in the fiscal note, will not go into effect until 2009-10 or thereafter.

CHANGES TO NEEDS IN THE FORMULA: The bill changes various portions of the computation of school district needs in the state aid formula. The changes which have a fiscal impact for the state and/or school districts are as follows:

Basic Funding: The bill changes the computation of the needs component of the state aid formula beginning in 2008-09. Instead of using cost groups as the primary basis to calculate need, the bill establishes comparison groups for each school district to determine the amount of basic funding. The comparison group for a school district is the next five larger districts and the next five smaller districts in size based upon the number of formula students. Basic funding is determined by first subtracting allowances to determine adjusted general fund operating expenditures. Then, for schools with less than 900 formula students, the basic funding for the district becomes the average of the adjusted general fund operating expenditures of the comparison group of school districts, omitting the high and low districts from the calculation. Basic funding for schools with 900 or more formula students will be based on average adjusted general fund operating expenditures per student for the comparison group, excluding the high and low districts.

The change from using cost groups to comparison groups for purposes of calculating basic funding will result in an estimated \$16 million decrease in the needs calculation in 2008-09 due to the exclusion of the high and low spending school districts in the comparison groups. The change in needs for any school district depends upon the relative spending of the district to the spending of other school districts in a comparison group. The calculated amount of needs for the basic funding component of the formula is about \$2.1 billion.

Formula Students: The calculation of formula students is changed to reduce the number of formula students by .5 for each student enrolled in less than full-day kindergarten. Formula students is also changed to include 60% of the qualified early childhood education fall membership. The formula currently weights early childhood education students at .06. The changes will alter the number of students used in the formula to calculate state aid. Districts not offering full-day kindergarten will have a lower number of formula students. Changes in formula students shift need between school districts.

General Fund Operating Expenditures: The definition of general fund operating expenditures (GFOE) is changed to include expenditures for summer school. GFOE is also redefined to exclude receipts to the general fund to the extent the receipts are not included in formula resources from early childhood education tuition, summer school tuition, converted contracts, distance education courses, private foundations and other private sources, the textbook loan program, federal impact aid, and transfers from the general fund to a bond fund and transfers from other funds into the general fund. Beginning in 2010-11, GFOE will also exclude the proceeds of levy override elections. Any changes in GFOE as a result of the inclusion of summer school as an expenditure and the exclusion of the other items as expenditures changes total needs in the formula. The changes decrease formula needs by \$34.1 million in 2008-09.

Cost Growth Factor: The bill changes the cost growth factor which is used to increase general fund operating expenditures in the formula. The component in the cost growth factor for enrollment growth is eliminated as is the growth due to a board vote. The cost growth factor in the 2008-09 certification of state aid is 1.078. The bill changes the factor to 1.06, based upon the current allowable growth rate. The change in the factor reduces the amount of formula need by \$37.9 million in 2008-09.

Allowances: The bill establishes new allowances for summer school and elementary sites and also modifies existing allowances for elementary class size and poverty. A new instructional time allowance is also established beginning in 2009-10. Typically, allowances do not change the overall amount of the needs calculation, but will alter the distribution of needs between school districts. An allowance enables expenditures for these types of programs to be attributed to the school district actually providing the program.

---Summer School Allowance: The summer school allowance for each district equals 2.5% of summer school units times 85% of the statewide average general fund operating expenditures per formula student. Summer school units are based upon the number of students attending summer school and the days attended. The summer school allowance allocates \$6.6 million of need in the formula in 2008-09 to school districts with summer school programs.

---Elementary Site Allowance: The new allowance for elementary sites is based upon a formula in the bill providing an amount for each elementary site if: a district has more than one elementary building; at least one elementary building does not offer any other grades; there are at least 100 sq. miles per elementary building in the district; and, an average of 15 or fewer students per grade per building. The elementary site allowance allocates \$12.7 million of formula need to school districts which are eligible for the allowance.

---Elementary Class Size Allowance: The bill modifies the existing elementary class size allowance beginning in **2009-10** and makes the allowance applicable only through 2012-13. The class size allowance in 2009-10 to 2012-13 is modified to apply to students in grades K-3 regardless of poverty status who spend at least 50% of the day in one or more classrooms with 10-20 students. The class size allowance in 2008-09 is \$63.9 million based upon students in grades 3 – 8 who qualify for free and reduced price lunches and spend at least 50% of the day in one classroom with 10 -20 students. The new requirements change the amount of the allowance and shift an unknown amount of need between school districts.

---Poverty Allowance: The bill changes various provisions relating to poverty allowances. The bill increases the maximum poverty allowance from 61% to 75%. The transportation and class size requirements for poverty plans are changed. Poverty allowance expenditures are limited to expenses that are paid for with state and local taxes and expenditures not included in other allowances. The bill also changes the definition of poverty students beginning in 2009-10. The poverty allowance calculates to \$63 million of need in 2008-09 which will be allocated to school districts eligible for the allowance.

---Instructional Time Allowance: An instructional time allowance is included in the calculation of needs beginning in **2009-10**. The allowance is equal to formula students times an instructional time factor times 85% of the statewide average general fund operating expenditures per formula student. The instructional time factor is based upon the average hours of instruction in a school district as compared to the average hours of instruction in the district's comparison group. Data is not currently available to calculate the change in needs pursuant to the new allowance. The allowance will shift need between school districts.

Adjustments: The bill establishes several adjustments that are to be subtracted or added to the basic funding for a school system. The adjustments will either increase or decrease formula need for school districts eligible for such adjustment.

---A local choice adjustment will reduce need for schools that have fewer than 390 students, are not sparse or very sparse and do not receive federal funds in excess of 25% of the budget. The adjustment will decrease need for such school districts by \$10.7 million in 2008-09.

---The teacher education adjustment increases need for schools having teachers with masters or doctoral degrees. The adjustment is based upon the computation of a teacher education index for each district. The index is based upon awarding points for masters and doctoral degrees and comparing the points for each district with the statewide average points. The adjustment for 2008-09 and 2009-10 equals 10% of the basic funding for a district times the difference of the teacher education index minus one. Districts with an index less than zero receive no adjustment. The adjustment percentage is raised from 10% of basic funding to 13.75% of basic funding beginning in 2010-11, so it is assumed need will increase for this adjustment beginning in 2010-11.

The adjustment increases need for affected school districts by \$24 million in 2008-09. The calculation is based upon assuming only teachers and head teachers are eligible to be counted for purposes of the adjustment. It is possible that other certificated staff will also be eligible for the adjustment depending upon how staff are categorized on the fall personnel report. The inclusion of additional positions in the computation of the adjustment may result in different districts being eligible which may increase or decrease the overall adjustment.

---The averaging adjustment will increase need for districts whose basic funding per student is less than the statewide average basic funding per formula student. Beginning in 2009-10, a district must have levied at least \$1.00 in the preceding fiscal year to be eligible for the adjustment. The adjustment equals a district's formula students times a percentage of the difference between the statewide average basic funding per adjusted formula student and the district's basic funding per adjusted formula student. The percentage used varies from 50% to 90% depending upon the amount of the prior year levy.

In 2008-09 only, the averaging adjustment is also given to districts levying \$.96 to \$.99. The percentage used for these districts varies from 10% to 40% depending upon the prior year levy. The averaging adjustment is also reduced to 75% of the amount calculated in 2008-09 only. The adjustment increases need by \$32.4 million in 2008-09. It is assumed the adjustment will be at least 22% higher in years thereafter.

---The student growth adjustment will increase aid for schools that are projecting an enrollment growth of more than 25 students beginning in **2009-10**. The adjustment will equal the district's basic funding per adjusted formula student times the approved growth in students minus the greater of 25 students or 1% of fall membership for the preceding school year. The adjustment also includes 50% of the students below the qualifying threshold in the calculation. A student growth adjustment correction is included beginning in 2011-12 to reflect actual student growth. It is estimated the student growth adjustment will increase need by approximately \$11.7 million in 2009-10, assuming larger districts continue to grow at the same rate as the past three years. The increase in need for this adjustment is offset somewhat by the elimination of the student growth component in the cost growth factor.

---The learning community transportation adjustment increases formula need for schools in the first two years in a learning community beginning in **2009-10** in an amount equal to the estimated cost to provide free transportation for students transferring to other schools in the learning community pursuant to subsection (2) of Section 79-611. The bill repeals the provisions of current law allowing school districts to exceed the allowable growth rate for these expenses. Schools claiming the adjustment must submit evidence of the amount spent for such transportation and an adjustment is made in the final recalculation of aid for the school year. The amount of increased need for districts in 2009-10 is unknown.

---The new school adjustment provides a two-year increase in need for schools opening new schools beginning in **2009-10**. The first-year adjustment equals an approved district's basic funding per adjusted formula student times 20% of the approved student capacity of the new building. The second year adjustment equals the basic funding per adjusted formula student times 10% student capacity of the building. Using projected enrollment growth rates, it is estimated the new school adjustment may increase need by \$2.2 million in 2009-10.

Stabilization Component: After all other components of formula need have been determined (basic funding, allowances and adjustments), the bill provides for a stabilization factor to be calculated. The factor provides that if the formula need for a district is less than 100% of the prior year's formula need, then formula need is set at 100% of the prior year's need. If formula need is greater than 112% of the prior year's need, then formula need is set at 112% of the prior year's need. The stabilization component results in a considerable change in need for individual school districts. The net fiscal impact of the change is an estimated increase in total need of \$3 million in 2008-09.

Repeal of Needs Stabilization Factor and Lop-off : The bill repeals current provisions in the formula which stabilize need for districts levying at least \$.9975 and repeals provisions to stabilize small schools. It also repeals lop-off provisions which capped equalization aid at the prior year level of aid and taxes grown by 1%, plus the applicable allowable growth rate, growth in students, reductions in other receipts and unused budget authority.

Learning Communities: The calculation of the basis for the minimum levy adjustment for learning communities is changed. The bill increases the difference between the maximum common levy and the levy that will require a minimum levy adjustment to be applied from two cents to five cents. The change may result in additional state aid for districts in a learning community.

Unified Systems: The bill allows formula needs for unified systems to be computed for the individual districts in the system rather than for the system as a whole beginning in **2009-10**. The change will make a difference in terms of basic funding provided for districts in a unified system because the districts will be compared to districts smaller in size which should result in more basic funding for districts in a unified system.

CHANGES TO RESOURCES IN THE FORMULA:

Change in Local Effort Rate and Use of 96% of Adjusted Valuation: The local effort rate in the formula is changed from the maximum levy less \$.10 ($\$1.05 - .10 = \0.95) to the maximum levy less \$.05 ($\$1.05 - .05 = \1.00). The \$.05 increase in the local effort rate will decrease the amount of state aid provided. The bill also changes the valuation used to compute state aid resources from 100% of adjusted valuations to 96% of adjusted valuations. The change increases the amount of state aid provided to school districts. The net impact of the change in resources for districts is an estimated \$19 million decrease in state aid in 2008-09.

At a minimum, it is likely the decrease in resources for school districts will result in at least a \$7.8 million increase in property taxes levied statewide, assuming school districts that will receive less state aid in 2008-09 than in 2007-08 opt to increase their levies to maintain at least the same level of spending as the prior year. It is also possible that the entire decrease in state aid will be made up with increased property tax receipts.

Net Option Funding: The bill clarifies that net option funding continues for students residing in a learning community who were option students prior to the establishment of the learning community. The calculation of net option funding is changed to reflect the use of the statewide average basic funding per adjusted formula student to determine the amount of funding.

Allocated Income Taxes: The bill provides that allocated income taxes will be reduced by \$20 million for aid calculated in 2008-09. This reduces resources to school districts by \$20 million in 2008-09 which causes a corresponding increase in the amount of equalization aid received by school districts. This changes the distribution of aid and only impacts non-equalization districts in terms of an actual decrease in the amount of state aid received.

Aid Stabilization: The bill stabilizes the amount of aid received by schools in 2008-09 and 2009-10. Aid stabilization for a local system in 2008-09 equals the difference of the amount of state aid provided in 2007-08 less 2.5% of the need calculated for 2008-09 less the sum of equalization aid, allocated income tax funds and net option funding. The calculation is the same for 2009-10 except 5% of the calculated need for 2009-10 is subtracted. The aid stabilization calculation increases state aid by \$5,892,990 in 2008-09 and an estimated \$2,900,000 in 2009-10.

CHANGES TO BUDGET LIMITS:

The bill eliminates exclusions to the budget lid for interlocal agreements, voluntary termination agreements and lease purchase agreements entered into before July 1, 1998. Exclusions for projected increases in formula students, operation expenses for new or expanded buildings, the first time inclusion of early childhood students in the formula, increases in allowances, and transportation for new learning community members are also eliminated.

The bill implements a new method to compute budget lids beginning in 2008-09. The bill limits general fund budgets, excluding special education and special grant funds, to the greater of: the prior year's general fund budget of expenditures times one plus the local district's allowable growth rate, or, 120% of the formula needs (less the prior year's special education budget times one plus the basic allowable growth rate).

The ability of a school board to vote to exceed the allowable growth rate is repealed. Districts are allowed to exceed the budget limitation with voter approval. The ability to use unused budget authority in future years is retained.

NDE did a model run to calculate the potential change in budget authority for school districts based on the bill. The model estimates the budget authority for school districts will increase by \$450.3 million in 2008-09. Lid exclusions for interlocal agreements, voluntary termination agreements and lease purchase agreements totaled \$128.3 million in 2007-08. These exclusions are eliminated by the bill so spending for such agreements will need to be done within the budget limitation. So, it is assumed districts will have the potential to increase spending by up to \$322 million. Increased spending by individual districts will depend upon current exclusions which will be under the lid in the future and the ability to levy additional property taxes. Increased spending by school districts results in increased need in the formula, two years after the spending increase occurs.

The actual amount of increased spending that will occur based on the budget limitation provisions in LB 988 is unknown. The amount of increased spending pursuant to increases in allowable growth provisions in LB 1024 and LB 641 were also unknown, so it is not possible to compare current law with the changes in budget authority in LB 988.

Administration: NDE will experience a workload increase to implement the bill. The department indicates that existing staff and resources are sufficient for implementation.

SUMMARY: In summary, the computer run provided by NDE shows the bill will reduce the amount of state aid distributed in 2008-09 by \$61.9 million. The following table shows the estimated general fund fiscal impact of the bill in 2009-10 and 2010-11. The table also shows the parts of the bill for which the fiscal impact is unable to be calculated.

	<u>FY 2008-09</u>	<u>FY2009-10</u>	<u>FY2010-11</u>
NDE Computer Model Run	-61,866,417	-61,866,417	-61,866,417
Savings due to formula changes*		-1,730,164	-2,798,836
GFOE Changes due to Exclusion of Levy Overrides			-3,997,092
Student Enrollment Growth Adjustment		11,678,562	12,262,490
New School Adjustment		2,227,077	3,507,647
Aid Stabilization		-2,992,990	-5,892,990
Teacher Education Adjustment			10,356,574
Averaging Adjustment		8,255,702	8,255,702
Net Impact of Income Tax Change		0	0
TOTAL ESTIMATED FISCAL IMPACT	-61,866,417	-44,428,230	-40,172,922
Unknown Fiscal Impacts:			
Learning Community Transportation Adjustment			???
Teacher Education Adjustment (computation change?)		???	???
Budget Authority Changes – Higher Spending			Up to \$ 322 Million

*GFOE, need stabilization, yield from local effort rate, non-equalized levy penalty.

LB 1151: LB 988, as amended, also includes the provisions of LB 1151 which allows a school district to exceed its allowable growth rate by the amount of estimated increased expenditures for telecommunication services and access to and transmission of data on networks in the first two years that a district participates in Network Nebraska, or in 2008-09, if the district participated in 2007-08.

The annual amount of the budget exception is unknown and depends upon increased telecommunications expenses of the school districts joining the Network each year. There is a distance education and telecommunications allowance in the TEEOSA formula. The allowance for the 2008-09 certification of state aid totals \$3,785,000. The allowance is 85% of the expenditures for distance education less receipts from the Universal Service Fee Fund. If the bill had been in effect for 2007-08, then no more than \$4.5 million could have been excluded from the budget lid pursuant to the bill, based upon the allowance. This estimate is assumed to be high because the allowance includes telecommunications expenses for all school districts, not just the districts that are initially participating in the Network. The allowance also does not reflect the net increase in expenditures. The amount of spending excluded from the lid by eligible school districts will increase the amount of state aid paid two years later.

LB 1017: The bill, as amended, also includes some of the provisions of LB 1017 which eliminate the exclusion from the levy limit of taxes levied by an educational service unit or school district for general obligation bonds issued to pay premium costs for insurance. Budget information for educational service units provided to the Auditor of Public Accounts shows there is currently one educational service unit indicating that it issued bonds to pay for the costs of insurance. The indebtedness associated with these bonds will be subject to the 1.5 cent levy limit for ESU's pursuant to the bill. Information from the 2007 Certificate of Taxes Levied shows there are four school districts which have issued bonds for premium costs. The bill requires that the indebtedness associated with these bonds will be subject to the \$1.00 levy limit for schools.

LB 1079: LB 988, as amended, also includes LB 1079 which changes the calculation of general fund operating expenditures in the state aid formula beginning in 2009-10. The bill provides that general fund operating expenditures will not include any legal expenses in excess of fifteen-hundredths of 1% of the formula need for the school year in which the expenses occurred.

The bill will have a fiscal impact for school districts in terms of decreased state aid, two years later, if legal expenses in any school year exceed fifteen-hundredths of 1% of formula need. The State Department of Education indicates that 218 school districts expended \$6.4 million on legal fees in 2006-07. The application of the .0015 factor to total formula needs for these districts, calculates to approximately \$3.5 of legal expenses that could be included in general fund operating expenses. The remaining \$2.9 of legal expenses would be excluded from general fund operating expenses. The calculation could be slightly skewed because the estimate is computed using statewide numbers rather than on a district specific basis.

LB 976 & LB977: The bill, as amended, also includes provisions of LB 977 pertaining to freeholding and LB 977 pertaining to unified systems. The bill adds a new set of criteria for freeholder petitions to have land set off from a school district and attached to a contiguous district. The bill provides that a petition may be filed to have land set off from any school district if the combined levies for the school district will be greater than \$1.20 or the maximum levy authorized by a vote. An exception is provided for levies set in 2007, if a school district files a binding resolution stating that combined levies for 2008, excluding voter approved levies for bonded indebtedness, will not be greater than \$1.20 or the maximum voter authorized levy. The bill also changes the approval and effective dates for petitions.

The changes may result in the transfer of land between school districts. It is not possible to project a fiscal impact because land transfers are not known. The transfer of land between districts will change the valuation of districts involved in transfers which will impact the property tax base of affected districts. Changes in the property tax base of affected districts will impact the revenues of districts from property taxes and state aid.

LB 988 also changes current law relating to the dissolution of unified school systems. The bill provides that schools may not withdraw from a unified system or dissolve a unified system unless a participating school district merges with at least one other district or the unified system will continue with at least one other participating district. The bill charges the court with jurisdiction to determine matters relating to the rights and liabilities of participating school districts including allocations of staff, property and revenue and repayments of incentive aid. The State Department of Education (NDE) is to implement and enforce terms of any declaratory judgment by a court. The bill also prohibits the creation of unified school systems after the effective date of the bill.

There are currently four unified school systems in the state which have twelve participating districts. The South Central Unified System has four participating districts, the Nebraska Unified and Hitchcock County Unified Systems each have three participating districts and the Bruning-Davenport Unified System consists of two school districts. The bill has no definite fiscal impact for districts participating in unified school systems. It is possible the restrictions on the dissolution or withdrawal of school districts from unified school systems or future declaratory judgments by a court as required by the bill may have a fiscal impact for school districts participating in these systems. Any future impact is unknown.